

transmits, within the timeframes specified by CMS, the information necessary for CMS to add the beneficiary to its records as an enrollee of the M+C organization.

(f) *Exception for employer group health plans.*

(1) In cases in which an M+C organization has both a Medicare contract and a contract with an employer group health plan, and in which the M+C organization arranges for the employer to process election forms for Medicare-entitled group members, who wish to enroll under the Medicare contract, the effective date of the election may be retroactive. Consistent with § 422.250(b), payment adjustments based on a retroactive effective date may be made for up to a 90-day period.

(2) In order to obtain the effective date described in paragraph (f)(1) of this section, the beneficiary must certify that, at the time of enrollment in the M+C organization, he or she received the disclosure statement specified in § 422.111.

(3) Upon receipt of the election form from the employer, the M+C organization must submit the enrollment within timeframes specified by CMS.

[63 FR 35071, June 26, 1998; 63 FR 52612, Oct. 1, 1998; 63 FR 54526, Oct. 9, 1998; 64 FR 7980, Feb. 17, 1999; 65 FR 40316, June 29, 2000]

#### § 422.62 Election of coverage under an M+C plan.

(a) *General: Coverage election periods—*

(1) *Initial coverage election period.* The initial coverage election period is the period during which a new M+C eligible individual may make an initial election. This period begins 3 months prior to the month the individual is first entitled to both Part A and Part B and ends the last day of the month preceding the month of entitlement.

(2) *Annual election period.* (i) Beginning in 1999, the month of November is the annual election period for the following calendar year. Organizations offering M+C plans in January 1999 must open enrollment to Medicare beneficiaries in November 1998.

(ii) During the annual election period, an individual eligible to enroll in an M+C plan may change his or her election from an M+C plan to original

Medicare or to a different M+C plan, or from original Medicare to an M+C plan.

(3) *Open enrollment and disenrollment opportunities through 2001.* From 1998 through 2001, the number of elections or changes that an M+C eligible individual may make is not limited (except as provided for in paragraph (d) of this section for M+C MSA plans). Subject to the M+C plan being open to enrollees as provided under § 422.60(a)(2), an individual eligible to elect an M+C plan may change his or her election from an M+C plan to original Medicare or to a different M+C plan, or from original Medicare to an M+C plan.

(4) *Open enrollment and disenrollment during 2002.* (i) Except as provided in paragraphs (a)(4)(ii), (a)(4)(iii), and (a)(6) of this section, an individual who is eligible to elect an M+C plan in 2002 may elect an M+C plan or change his or her election from an M+C plan to original Medicare or to a different M+C plan, or from original Medicare to an M+C plan, but only once during the first 6 months of the year.

(ii) *Newly eligible M+C individual.* An individual who becomes an M+C eligible individual during 2002 may elect an M+C plan or original Medicare and then change his or her election once during the period that begins the month the individual is entitled to both Part A and Part B and ends on the last day of the 6th month of such entitlement, or on December 31, whichever is earlier. The individual can change the election from an M+C plan to original Medicare or to a different M+C plan, or from original Medicare to an M+C plan during this period.

(iii) The limitation to one election or change in paragraphs (a)(4)(i) and (a)(4)(ii) of this section does not apply to elections or changes made during the annual election period specified in (a)(2) of this section or during a special enrollment period specified in paragraph (b) of this section.

(5) *Open enrollment and disenrollment beginning in 2003.* (i) For 2003 and subsequent years, except as provided in paragraphs (a)(5)(ii), (a)(5)(iii), and (a)(6) of this section, an individual who is eligible to elect an M+C plan may elect an M+C plan, change his or her election from an M+C plan to original Medicare or to a different M+C plan, or

from original Medicare to an M+C plan, but only once during the first 3 months of the year.

(ii) *Newly eligible M+C individual.* An individual who becomes an M+C eligible individual during 2003 or later may elect an M+C plan or original Medicare and then change his or her election once during the period that begins the month the individual is entitled to both Part A and Part B and ends on the last day of the 3rd month of such entitlement, or on December 31, whichever is earlier. The individual can change the election from an M+C plan to original Medicare or to a different M+C plan, or from original Medicare to an M+C plan during this period.

(iii) The limitation to one election or change in paragraphs (a)(5)(i) and (a)(5)(ii) of this section does not apply to elections or changes made during the annual election period specified in paragraph (a)(2) of this section or during a special election period specified in paragraph (b) of this section.

(6) *Open enrollment period for institutionalized individuals.* After 2001, an individual who is eligible to elect an M+C plan and who is institutionalized, as defined by CMS, is not limited (except as provided for in paragraph (d) of this section for M+C MSA plans) in the number of elections or changes he or she may make. Subject to the M+C plan being open to enrollees as provided under § 422.60(a)(2), an M+C eligible institutionalized individual may at any time elect an M+C plan or change his or her election from an M+C plan to original Medicare, to a different M+C plan, or from original Medicare to an M+C plan.

(b) *Special election periods.* Effective as of January 1, 1999 for M+C MSA plans, and as of January 1, 2002, for all other types of M+C plans, an individual may at any time (that is, not limited to the annual election period) discontinue the election of an M+C plan offered by an M+C organization and change his or her election, in the form and manner specified by CMS, from an M+C plan to original Medicare or to a different M+C plan under any of the following circumstances:

(1) CMS or the organization has terminated the organization's contract for the plan, discontinued the plan in the

area in which the individual resides, or the organization has notified the individual of the impending termination of the plan, or the impending discontinuation of the plan in the area in which the individual resides.

(2) The individual is not eligible to remain enrolled in the plan because of a change in his or her place of residence to a location out of the service area or continuation area or other change in circumstances as determined by CMS but not including terminations resulting from a failure to make timely payment of an M+C monthly or supplemental beneficiary premium, or from disruptive behavior.

(3) The individual demonstrates to CMS, in accordance with guidelines issued by CMS, that—

(i) The organization offering the plan substantially violated a material provision of its contract under this part in relation to the individual, including, but not limited to the following:

(A) Failure to provide the beneficiary on a timely basis medically necessary services for which benefits are available under the plan.

(B) Failure to provide medical services in accordance with applicable quality standards; or

(ii) The organization (or its agent, representative, or plan provider) materially misrepresented the plan's provisions in marketing the plan to the individual.

(4) The individual meets such other exceptional conditions as CMS may provide.

(c) *Special election period for individual age 65.* Effective January 1, 2002, an M+C eligible individual who elects an M+C plan during the initial enrollment period, as defined under section 1837(d) of the Act, that surrounds his or her 65th birthday (this period begins 3 months before and ends 3 months after the month of the individual's 65th birthday) may discontinue the election of that plan and elect coverage under original Medicare at any time during the 12-month period that begins on the effective date of enrollment in the M+C plan.

(d) *Special rules for M+C MSA plans—*  
(1) *Enrollment.* An individual may enroll in an M+C MSA plan only during

an initial or annual election period described in paragraphs (a)(1) and (a)(2) of this section or during November 1998.

(2) *Disenrollment.* (i) Except as provided in paragraph (d)(2)(ii) of this section, an individual may disenroll from an M+C MSA plan only during—

(A) November 1998;

(B) An annual election period; or

(C) The special election period described in paragraph (b) of this section.

(ii) *Exception.* An individual who elects an M+C MSA plan during an annual election period and has never before elected an M+C MSA plan may revoke that election, no later than December 15 of that same year, by submitting to the organization that offers the M+C MSA plan a signed and dated request in the form and manner prescribed by CMS or by filing the appropriate disenrollment form through other mechanisms as determined by CMS.

[63 FR 35071, June 26, 1998; 63 FR 52612, Oct. 1, 1998, as amended at 65 FR 40317, June 29, 2000]

#### § 422.64 Information about the M+C program.

Each M+C organization must provide, on an annual basis, and in a format and using standard terminology that may be specified by CMS, the information necessary to enable CMS to provide to current and potential beneficiaries the information they need to make informed decisions with respect to the available choices for Medicare coverage.

[65 FR 40317, June 29, 2000]

#### § 422.66 Coordination of enrollment and disenrollment through M+C organizations.

(a) *Enrollment.* An individual who wishes to elect an M+C plan offered by an M+C organization may make or change his or her election during the election periods specified in § 422.62 by filing the appropriate election form with the organization or through other mechanisms as determined by CMS.

(b) *Disenrollment—(1) Basic rule.* An individual who wishes to disenroll from an M+C plan may change his or her election during the election periods specified in § 422.62 in either of the following manners:

(i) Elect a different M+C plan by filing the appropriate election form with the M+C organization or through other mechanisms as determined by CMS.

(ii) Submit a signed and dated request for disenrollment to the M+C organization in the form and manner prescribed by CMS or file the appropriate disenrollment form through other mechanisms as determined by CMS.

(2) *When a disenrollment request is considered to have been made.* A disenrollment request is considered to have been made on the date the disenrollment request is received by the M+C organization.

(3) *Responsibilities of the M+C organization.* The M+C organization must—

(i) Submit a disenrollment notice to CMS within timeframes specified by CMS;

(ii) Provide the enrollee with a copy of the request for disenrollment; and

(iii) In the case of a plan where lock-in applies, also provide the enrollee with a statement explaining that he or she—

(A) Remains enrolled until the effective date of disenrollment; and

(B) Until that date, neither the M+C organization nor CMS pays for services not provided or arranged for by the M+C plan in which the enrollee is enrolled; and

(iv) File and retain disenrollment requests for the period specified in CMS instructions.

(4) *Effect of failure to submit disenrollment notice to CMS promptly.* If the M+C organization fails to submit the correct and complete notice required in paragraph (b)(3)(i) of this section, the M+C organization must reimburse CMS for any capitation payments received after the month in which payment would have ceased if the requirement had been met timely.

(5) *Retroactive disenrollment.* CMS may grant retroactive disenrollment in the following cases:

(i) There never was a legally valid enrollment.

(ii) A valid request for disenrollment was properly made but not processed or acted upon.

(c) *Election by default: Initial coverage election period.* An individual who fails to make an election during the initial